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SENATE

REPORT
101-478

USED OIL ENERGY PRODUCTION ACT OF 1990

SEPTEMBER 28 (legislative day, SEPTEMBER 10), 1990.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2923]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2923) to amend title III of the Energy Policy and Conservation Act to conserve valuable natural resources primarily through energy production to enhance energy efficiency, and to clarify the status of materials for energy production under the Public Utilities Regulatory Policy Act and the Federal Power Act, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill, as amended do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Used Oil Energy Production Act of 1990".

SEC. 2. FINDINGS.

The Congess finds the following:

(1) Each year, the United States produces and uses 2.6 billion gallons of lubricating oil, much of what could be recovered for energy production.

(2) Used oil when properly refined, re-refined or reprocessed, is a valuable domestic energy resource, having an energy value of 145,000 Btu's per gallon, and the reuse of which would reduce the Nation's dependence on imported oil.

(3) The refining, re-refining, or reprocessing of used oil into lubricating oil or fuel requires less than 5 percent of the energy of producing fuel and petroleum products from virgin crude oil.

(4) Each year Americans carelessly discard more than 400 million gallons of used motor oil (an amount greater than 35 Exxon Valdez oil spills) into the Nation's soil and water, thus causing substantial environmental damage.

(5) The reuse of just this quantity of carelessly discarded oil could eliminate the need to import nearly 10 million barrels of crude oil annually, and would substantially reduce the environmental damage caused by improper disposal.

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(6) Currently, only about 25 percent of used oil is collected and reused, in part, because the profitability of such operations is relatively small, and is affected by the price fluctuations of crude oil. In addition, many businesses are unwilling to assume the potential legal liabilities associated with collecting and reusing used oil.

(7) Market-based incentives designed to encourage energy production and other uses of used oil can significantly reduce the amount of used oil carelessly discarded, increase its reuse and reduce the Nation's dependence on imported oil.

(8) The Secretary of Energy requires additioanl statutory authority to promote energy production and other uses of used oil through the creation of market-based incentives.

SEC. 3. REQUIREMENTS FOR ENERGY PRODUCTION FROM USED OIL.

Section 383 of the Energy Policy and Conservation Act (42 U.S.C. 6363) is amended—

(1) in subsection (c) by —

(A) striking "As soon as practicable after the date of enactment of this Act" and inserting "Not less than 15 months after the date of enactment of the Used Oil Energy Production Act of 1990"; and

(B) striking "National Bureau of Standard" each place it appears and inserting "National Institute of Standards and Technology"; and

(2) by adding at the end thereof the following new subsection:

"(g) MARKET INCENTIVES FOR THE REUSE OF USED OIL.—

"(1) REQUIREMENTS.—(A) Beginning not later than 18 months after the date of the enactment of this subsection, a producer or importer of 100,000 gallons or more per year of lubricating oil shall each year either refine, re-refine, or reprocess into petroleum products, including fuels, using a method described in subparagraph (B), an amount of used oil equal to at least that amount of oil determined by—

"(i) multiplying the lubricating oil produced or imported that year by such person, by

"(ii) the percentage established by the Secretary under paragraph (2).

"(B) A producer or importer of lubricating oil may comply with this paragraph by—

"(i) refining, re-refining, or reprocessing used oil for purposes of producing petroleum products, including fuels; or

"(ii) purchasing credits under the credit system established pursuant to paragraph (3).

"(2) ESTABLISHMENT OF REUSE PERCENTAGE.—Each year the Secretary shall establish a percentage for use under paragraph (1). The percentage applicable during the first year that the requirement established by paragraph (1) is in effect, shall be a percentage that is equal to the reuse rate for lubricating oil that exists on the date of the enactment of this Act. Such rate shall be determined by using data for the most recent year for which data are available. Through the year 1995, the percentage shall be an additional 2 percentage points higher than the actual percentage for the previous year as determined by the Secretary.

"(3) Regulations.—

"(A) IN GENERAL.—Not later than 18 months after the date of the enactment of this subsection, the Secretary shall promulgate regulations to implement these requirements. Those regulations shall cover:

"(i) producers and importers of lubricating oil;

"(ii) generators and collectors of used oil;

"(iii) a system, including permits, by which refiners, re-refiners and reprocessors of used oil may create credits which may be purchased by producers and importers of lubricating oil for the purpose of complying with subparagraph (1)(B);

"(iv) enforcement;

"(v) recordkeeping;

"(vi) any other requirement which the Secretary considers necessary for administering the program set forth by this subsection; and

"(vii) prohibitions on the mixing of used oil with hazardous wastes or other physical or chemical impurities not associated with its use as a lubricating oil, and the creation of credits from such mixed used oil.

"(B) DEFINITIONS.—For purposes of this subsection,

"(i) the term 'credit' means a legal record of used oil refined, re-refined or reprocessed in accordance with this subsection for purposes of complying with paragraph (1);

"(ii) the term 'producer' with respect to lubricating oil means any person who produces a lubricant base stock from crude oil. Such production does not include the re-refining of used oil;

"(iii) the term 'importer' with respect to lubricating oil means any person who imports a lubricant base stock or lubricating oil, except for lubricating oil contained in transportation vehicles or other machinery;

"(iv) the term 'lubricant base stock' means oil from which lubricating oil is made after introduction of additives;

"(v) the terms 'generator' and 'collector' mean any person who collects, stores, accumulates, or otherwise generates used oil. Such term does not include an individual who generates used oil by removing such oil from the engine of a light duty motor vehicle or household appliance owned by this individual;

"(vi) the terms 're-refiner' and 'reprocesser' mean a person who produces lubricating oils, fuels, or other petroleum products through the processing of used oil; and

"(vii) the term 'refiner' means any owner or operator of a facility that is classified as an S.I.C. 2911 facility under the Office of Management and Budget Standard Classification Manual.

"(C) EXEMPTIONS.—

"(i) This subsection and the regulations promulgated under this subsection shall not apply to a facility:

"(I) that is classified as an S.I.C. number 2911 facility under the Office of Management and Budget Standard Classification Manual and that refines used oil into fuel or other petroleum products, the amount of which is equal to no more than the amount of used oil that the owner of the facility is required to refine or otherwise reuse under paragraph (1)(A); or

"(II) that is classified as an S.I.C. number 2899, or S.I.C. number 2992 facility under the Office of Management and Budget Standard Classification Manual and that compounds or blends lubricating base oil into finished lubricant products as its principal activity, provided that such facility has a contract to reprocess a customer's used lubricant, and does not take title to such lubricant, and such reprocessed lubricant product is returned to the customer.

"(ii) This subsection and the regulations promulgated there under shall not apply to used oil that is generated on-site for on-site energy production activities, including storage, use, and transportation, carried out at a facility that is classified as an S.I.C. number 4911 facility under the Office of Management and Budget Standard Classification Manual.

"(iii) The Secretary shall promulgate regulations establishing requirements for exempt refineries that refine used oil. The regulations shall cover recordkeeping, testing, and such other matters as the Secretary determines are necessary and appropriate for refining used oil at exempt refineries.

"(4) AUTHORIZATIONS.—There is authorized to be appropriated to the Secretary of Energy $2,000,000 to carry out this subsection. There is authorized to be appropriated to the Secretary of Commerce for use by the National Institute of Standards and Technology $3,000,000 to carry out its responsibilities under this section.

"(5) REPORT.—One year after the date of enactment of this subsection, and annually thereafter, the Secretary of Energy shall submit a report to the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the implementation and operation of this subsection.".

SEC. 4. LISTING OR IDENTIFICATION OF USED OIL.

Section 3001 of the Solid Waste Disposal Act is amended by adding at the end the following:

"(j) USED OIL.—Notwithstanding any other provision of law, the Administrator shall not list or identify used oil as a hazardous waste under this subtitle, nor shall used oil otherwise be deemed to be a hazardous waste under this subtitle."

SEC. 5. SUNSET.

The authority of this Act expires five years after the date of enactment of this Act.

2. Amend the title so as to read "To amend title III of the Energy Policy and Conservation Act to promote the refining, re-refining and reprocessing of used lubricating oil into fuels and other petroleum products, and for other purposes.".

PURPOSE

The purpose of S. 2923 is to promote the refining, re-refining or reprocessing of used oil into fuels and other petroleum products.

BACKGROUND AND NEED

In the past Congress has recognized the benefits of reuse, including the using of certain waste materials as fuel for energy production. In 1975, Congress enacted section 383 of the Energy Policy and Conservation Act (EPCA) (Public Law 94-163) which set forth a Federal policy designed to promote the reuse of used oil. In 1978 Congress enacted the Public Utility Regulatory Policies Act of 1978 (PURPA) which established benefits for certain qualifying non-utility electric generation facilities to promote the use of biomass and waste for electric energy production. These policies have helped to develop fledgling industries in the reuse of certain wastes for energy production.

In the case of used oil, significant additional benefits to reuse remain available, including: (1) a reduction in the amount of used oil that is currently improperly discarded, estimated at over 400 million gallons annually; (2) displacement of oil that would otherwise have to be imported, thereby enhancing national energy security and the balance of trade; and (3) increasing the Nation's international competitiveness by increasing general economic efficiency through the use of previously discarded resources.

The 400 million gallons of used oil estimated to be improperly discarded each year down drains and into landfills causes substantial environmental damage to the Nation's water and soil. All of this oil could be refined, re-refined or reprocessed into fuel for energy production, or into other petroleum products. Nevertheless, only about 30 percent of recoverable used oil is currently reused.

The reuse of used oil has a distinct advantage over the reuse of other wastes because it can be easily refined, re-refined or reprocessed into new products using existing petroleum industry capacity. One difficulty is that used oil may have become contaminated with impurities. However, these impurities can be removed in an environmentally safe manner.

The two main barriers which exist to the expanded reuse of used oil are: marginal economics and potential legal liabilities. The economics of the reuse of oil is marginal because the price of the competing resource, crude oil, is subject to wide price swings. Low world crude oil prices have, at times, made the collection and reprocessing of used oil more expensive than producing products from crude oil. The uncertainty in prices creates a disincentive to investment in the reuse of oil.

The second barrier, potential legal liability, is a consequence of the fact that the Administrator of the Environmental Protection Agency is currently authorized to list used oil as a hazardous waste. Such an action would completely alter the regulatory environment governing the resue of oil, and would open the entire used oil collection and reprocessing system to the liabilities set forth in the Solid Waste Disposal Act. This uncertainty creates an additional disincentive to investments in the reuse of oil.

Legislation is needed to mitigate these uncertainities, and thereby, reduce these disincentives to investments in the reuse of used oil.

Legislative History

S. 2923 was introduced on July 26, 1990 by Senator Wirth. On July 27, 1990, Senator Heinz was added as a cosponsor. A hearing was held by the Subcommittee on Energy Regulation and Conservation on August 2, 1990, and on September 19, 1990, the Committee ordered the measure reported with amendments.

Committee Recommendation and the Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on September 19, 1990, considered S. 2923 and by a unanimous vote of a quorum present, recommends that the Senate pass S. 2923 if amended as described herein.

The rollcall vote on reporting the measure was 18 yeas, 0 nays as follows:

YEAS	NAYS
Mr. Johnston*	
Mr. Bumpers	
Mr. Ford	
Mr. Bradley	
Mr. Bingaman	
Mr. Wirth	
Mr. Conrad	
Mr. Heflin*	
Mr. Akaka*	
Mr. McClure	
Mr. Hatfield*	
Mr. Domenici*	
Mr. Wallop	
Mr. Murkowski	
Mr. Nickles*	
Mr. Burns	
Mr. Garn*	
Mr. McConnell	

* Indicates vote by proxy.

Committee Amendments

The Committee adopted two amendments. The first amendment was in the nature of a substitute to the text of S. 2923 as introduced. This substitute text does not include title II of the bill as introduced regarding the reuse of scrap tires and old newspapers.

In addition, the substitute includes several significant modifications to title I of the bill regarding used oil. First, the substitute is more specific than the original bill regarding the regulations that the Secretary shall promulgate in order to implement the program. Second, the substitute includes, as section 4, an amendment to section 3001 of the Solid Waste Disposal Act regarding the treatment of used oil. Finally, the substitute includes a reporting requirement and a 5-year "sunset" provision of the authorities established under the Act.

The second Committee amendment would amend the title of the bill.

Section-by-Section Analysis

Section 1. Short Title

Section 2. Findings

The findings set forth the background, need, and justification for the policy and program established by S. 2923.

Section 3. Requirements for Energy Production from Used Oil

This section would amend section 383 of the Energy Policy and Conservation Act (EPCA) to establish a program to promote the reuse of used oil. Subsection (1) would modify subsection 383(c) of EPCA regarding the development of test procedures for the determination of "substantial equivalency" of reprocessed used oil and new oil for a particular end use. Subsection (2) would add a new subsection (g) at the end of Section 383 to establish requirements and incentives for the reuse of used oil.

Paragraph (g)(1) would require that producers and importers of 100,000 gallons or more per year of lubricating oil shall refine, re-refine or reprocess a certain amount of used oil into petroleum products. The amount of used oil to be refined, re-refined or reprocessed would be equal to at least that amount determined by multiplying the amount of lubricating oil produced or imported that year by such person, by a percentage established by the Secretary of Energy. Producers and importers could comply with this requirement by either refining, re-refining or reprocessing the required amount of used oil into petroleum products, or by purchasing credits from refiners, re-refiners or reprocessors permitted to create credits under the program. These credits would represent an amount of used oil actually refined, re-refined or reprocessed.

Paragraph (g)(2) would provide that the initial percentage to be established by the Secretary as the annual rate for the refining, re-refining or reprocessing (reuse) of used oil shall be equal to the rate of such reuse that exists on the date of enactment of this new subsection using the most recent data. Each year the percentage of reuse shall be 2 percent higher than the actual rate of reuse for the previous year as determined by the Secretary. This language would, therefore, establish a minimum annual increase in the rate of reuse of 2 percent. If the actual rate of increase were more than 2 percent, then the rate for the following year would be 2 percent above that higher level.

Paragraph (g)(3) sets forth, under subparagraph (A), the scope of the regulations which the Secretary would be required to promulgate not later than 18 months after the date of enactment of this subsection. These include regulations covering the producers and importers of lubricating oil; generators and collectors of used oil; a system by which refiners, re-refiners and reprocessors of used oil would be permitted, by the Secretary, to create credits for sale to producers and importers; enforcement and recordkeeping regulations; any other regulations which the Secretary may consider necessary for administering the program; and, finally, regulations to prohibit the mixing of used oil with hazardous wastes or other impurities not associated with its use as a lubricating oil.

It is the Committee's intent that the Secretary promulgate the minimum of regulations necessary to administer the program and that he consult with the Administrator of the Environmental Protection Agency prior to promulgating these regulations. The Secretary shall, whenever possible, rely upon existing recordkeeping, testing, enforcement and other existing regulations of the Federal Government in order to minimize the regulatory burden of this program.

Paragraph (g)(3) also sets forth, under subparagraph (B), the definitions for this new subsection. These definitions are self-explanatory. However, it is important to point out that two terms, "re-refiner" and "reprocessor" are combined under one definition, clause (vi). The purpose of having two terms is that the Secretary may find it useful or necessary to distinguish between persons that reprocess used oil by using refining techniques such as distillation, and those that reprocess used oil using other less intensive methods, such as filtration.

Finally, paragraph (g)(3) sets forth, under subparagraph (C) exemptions from the regulations promulgated under this subsection. These exemptions, under clause (i), cover refineries, classified as S.I.C. number 2911 facilities under the Office of Management and Budget Standard Classification Manual, that refine used oil into fuel or other petroleum products up to the amount which the owner of that facility is required to refine, re-refine or reprocess under paragraph (1)(A). Clause (i) also exempts the facilities of certain lubricant manufacturers classified as S.I.C. number 2899 and 2992 facilities for their reprocessing operations that are an adjunct to their principal activity of blending and compounding lubricants. These specialized reprocessing operations generally reclaim petroleum-based industrial lubricants and metalworking compounds through mechanical or chemical means to remove solid contaminants, water, and other degradation products. Additives for performance characteristics are added to restore the lubricant to its original specifications. Such reprocessing is used by customers to conserve resources, minimize waste, and reduce costs and liabilities.

It is the Committee's intent that this specialized reprocessing not be discouraged by the program created pursuant to S. 2923. Moreover, because many of these industrial and metalworking lubricants are formulated with water, the recycling of these lubricants, if included in the regulations, could distort the credits system. Therefore, this exemption is provided to these reprocessing oper-

ations, provided that the facility reclaims the used lubricant under a contract with its customer, the customer retains title to the lubricant being recycled, and the reclaimed product is returned to the customer. These conditions for the exemption take into account the "batch" and "closed loop" nature of such reprocessing.

Clause (ii) of subparagraph (C) provides an exemption to electric generation facilities classified as an S.I.C. number 4911 facility under the Office of Management and Budget Standard Classification Manual for used oil that is generated on-site for on-site energy production activities, including storage, use and transportation.

The Secretary, under clause (iii) is authorized and directed to promulgate regulations establishing requirements for those refineries exempt under clause (i). These regulations shall cover the recordkeeping, testing and other matters necessary and appropriate for refining used oil at exempt refineries.

Paragraph (g)(4) authorizes a total of $2 million in appropriations for the Secretary to carry out his responsibilities under subsection (g), and $3 million for the Secretary of Commerce to carry out his responsibilities under Section 383.

Paragraph (g)(5) directs that the Secretary to report annually to Congress on the implementation and operation of this subsection.

Section 4. Listing or Identification of Used Oil

This Section would amend Section 3001 of the Solid Waste Disposal Act (42 U.S.C. 6921) to prohibit the Administrator of the Environmental Protection Agency from listing or identifying used oil as a hazardous waste nor shall used oil be deemed a hazardous waste. There are two reasons why it is essential to include in this legislation this prohibition against the listing or cleaning of used oil as a hazardous waste. First, used oil collection and reprocessing programs currently in place, and those that need to be developed or expanded to increase the reuse of used oil, would not be viable were used oil to be listed or deemed as a hazardous waste. Such listing or deeming would expose the collectors and reprocessors of used oil to unacceptable potential legal liabilities. Second, this provision is required to assure that there is adequate capacity to refine, re-refine or reprocess the used oil that would be collected should this bill be enacted. The elimination of the uncertainty regarding the issue of used oil as a hazardous waste, and elimination of the threat of legal liability for the collection and reprocessing of used oil, is essential to the success of this program, and to promoting the reuse of used oil.

Section 5. Sunset

This section provides that the authorities under S. 2923 shall expire five years after the date of enactment.

Cost and Budgetary Considerations

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 21, 1990.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2923, the Used Oil Energy Production Act of 1990, as ordered reported by the Senate Committee on Energy and Natural Resources on September 19, 1990. CBO estimates that enacting S. 2923 would cost the federal government approximately $5 million over fiscal years 1991 and 1992, and a total of $5.3 million over fiscal years 1991 through 1995, assuming appropriation of the necessary funds.

The bill would amend the Energy Policy and Conservation Act (42 U.S.C. 6363) by requiring most companies that produce or import 100,000 gallons or more per year of lubricating oil to either refine, re-refine, or reprocess a certain percent of the oil used in each year. The bill also would provide for a credit system that would allow producers and importers to purchase credits for oil reuse from refiners and reprocessors of used oil, instead of performing all of the necessary refining or reprocessing themselves.

S. 2923 would require that the Department of Energy (DOE) issue, within 18 months of enactment, regulations that would establish the required reuse percentage by year, create a system of oil reuse credits, and cover all enforcement, recordkeeping, and administrative requirements for the oil reuse program. Beginning with the actual rate for reuse of lubricating oil as of the date of enactment, the bill would require that the annual reuse rate be increased by two percentage points each year, through the year 2000. The bill would authorize $2 million for developing and implementing the DOE regulations.

The bill also would authorize $3 million to be appropriated to the Secretary of Commerce for use by the National Institute of Standards and Technology to develop, within 15 months of enactment, test procedures for determining the substantial equivalency for particular and uses of re-refined or reprocessed oil with new oil.

S. 2923 would require DOE to provide annual reports to the Congress on the implementation and operation of the oil reuse program. CBO estimates that these monitoring and reporting requirements would cost about $300,000 over fiscal years 1991 through 1995.

Enacting this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Peter Fontaine.

Sincerely,

ROBERT D. REISCHAUER,
Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation

of the regulatory impact which would be incurred in carrying out S. 2923.

This legislation would establish regulatory requirements on producers and importers of lubricating oil, as well as on those persons generating, collecting, storing and reprocessing used oil. The economic impact of these requirements would be signficant, but cannot be accurately estimated. Section 4 of the bill would remove a potential regulatory burden on these persons and businesses by prohibiting the classification of used oil as a hazardous waste.

The measure would have no impact on personal privacy.

Because of the regulatory nature of the measure, and the need to track used oil from its point of origin to its being reprocessed into new petroleum products, S. 2923 would increase paperwork for importers and producers of lubricating oils, and those generating, collecting, storing and reprocessing used oil. Paperwork would necessarily be increased within the Department of Energy as a result the administration of the program.

Executive Communications

During the Subcommittee's August 2, 1990, hearing on S. 2923, representatives of the Administration testified in opposition to enactment of bill. The entire text of these statements are a part of the hearing record.

Changes in Existing law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes the following changes in existing law made by the bill S. 2923, as reported (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law to which no change is proprosed is shown in roman):

Energy Policy and Conservation Act

Public Law 94-163, as Amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Policy and Conservation Act".

* * * * * * *

FEDERAL ACTIONS WITH RESPECT TO RECYCLED OIL

Sec. 383. (a) The purposes of this section are—

(1) to encourage the recycling of used oil;

(2) to promote the use of recycled oil;

(3) to reduce consumption of new oil by promoting increased utilization of recycled oil; and

(4) to reduce environmental hazards and wasteful practices associated with the disposal of used oil.

(b) As used in this section:

(1) the term "used oil" means any oil which has been refined from crude oil, has been used, and as result of such use has been contaminated by physical or chemical impurities.

(2) The term "recycled oil" means—

(A) used oil from which physical and chemical contaminants acquired through use have been removed by re-refining or other processing, or

(B) any blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives.

with respect to which the manufacturer has determined, pursuant to the rule prescribed under subsection (d)(1)(A)(i), is substantially equivalent to new oil for a particular end use.

(3) The term "new oil" means any oil which has been refined from crude oil and has not been used, and which may or may not contain additives. Such term does not include used oil or recycled oil.

(4) The term "manufacturer" means any person who re-refines or otherwise processes used oil to remove physical or chemical impurities acquired through use or who blends such refined or otherwise processed used oil with new oil or additives.

(5) The term "Commission" means the Federal Trade Commission.

(c) [As soon as practicable after the date of enactment of this Act,] *Note less than 15 months after the date of enactment of the Used Oil Energy Production Act of 1990,* the [National Bureau of Standards] *National Institute of Standards and Technology* shall develop test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend or oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil for a particular end use. As soon as practicable after development of such test procedures, the [National Bureau of Standards] *National Institute of Standards and Technology* shall report such produres to the Commission.

(d)(1)(A) Within 90 days after the date on which the Commission receives the report under subsection (c), the Commission shall, by rule, prescribe—

(i) test procedures for the determination of substantial equivalency of re-refined or otherwise processed used oil or blend of oil, consisting of such re-refined or otherwise processed used oil and new oil or additives, with new oil distributed for a particular and use; and

(ii) labeling standards applicable to containers of recycled oil in order to carry out the purposes of this section.

(B) Such labeling standards shall permit any container of recycled oil to bear a label indicating any particular end use for which a determination of substantial equivalency has been made pursuant to subparagraph (A)(i).

(2) Not later than the expiration oif such 90-day period, the Secretary of the Environmental Protection Agency shall, by rule, prescribe labeling standards applicable to containers of new oil, used oil, and recycled oil relating to the proper disoposal of such oils after use. Such standards shall be designed to reduce, to the maximum extent practicable, environmental hazards and wasteful practices associated with the disposal of such oils after use.

(e) Beginning on the effective date of standards prescribed pursuant to subsection (d)(1)(A)—

(1) no rule or order of the Commission, other than the rules required to be prescribed pursuant to subsection (d)(1)(A), and no law, regulation, or order of any State or political subdivision thereof may apply, or remain applicable, to any container of recycled oil, if such law, regulation, rule, or order requires any container of recycled oil, which container bears a label in accordance with the terms of the rules prescribed under subsection (d)(1)(A), to bear any label with respect to the comparative characteristics of such recycled oil with new oil which is not identical to that permitted by the rule respecting labeling standards prescribed under subsection (d)(1)(A)(ii); and

(2) no rule or order of the Commission may require any container of recycled oil to also bear a label containing any term, phrase, or description which connotes less than substantial equivalency of such recycled oil with new oil.

(f) after the effective date of the rules required to be prescribed under subsection (d)(1)(A), all Federal officials shall act within their authority to carry out the purposes of this section, including—

(1) revisng procurement policies to encourage procurement of recycled oil for military and nonmilitary Federal uses whenever such recycled oil is available at prices competitive with new oil procured for the same end use; and

(2) educating persons employed by Federal and State governments and private sectors of the economy of the merits of recycled oil, the need for its use in order to reduce the drain on the Nation's oil reserves, and proper disposal of used oil to avoid waste of such oil and to minimize environmental hazards associated with improper disposal.

(g) MARKET INCENTIVES FOR THE REUSE OF USED OIL.—

(1) REQUIREMENTS.—(A) Beginning not later than 18 months after the date of the enactment of this subsection, a producer or importer of 100,000 gallons or more per year of lubricating oil shall each year either refine, re-refine, or reprocess into petroleum products, including fuels, using a method described in subparagraph (B), an amount of used oil equal to at least that amount of oil determined by—

(i) multiplying the lubricating oil produced or imported that year by such person, by

(ii) the percentage established by the Secretary under paragraph (2).

(B) A producer or importer of lubricating oil may comply with this paragraph by—

(i) refining, re-refining, or reprocessing used oil for purposes of producing petroleum products, including fuels; or

(ii) purchasing credits under the credit system established pursuant to paragraph (3).

(2) ESTABLISHMENT OF REUSE PERCENTAGE.—Each year the Secretary shall establish a percentage for use under paragraph (1). The percentage applicable during the first year that the requirement established by paragraph (1) is in effect, shall be a percentage that is equal to the reuse rate for lubricating oil that exists on the date of the enactment of this Act. Such rate shall be determined by using data for the most recent year for which data are available. Through the year 1995, the percentage shall

be an additional 2 percentage points higher than the actual percentage for the previous year as determined by the Secretary.

(8) REGULATIONS.—

(A) IN GENERAL.—Not later than 18 months after the date of the enactment of this subsection, the Secretary shall promulgate regulations to implement these requirements. These regulations shall cover:

(i) producers and importers of lubricating oil;

(ii) generators and collectors of used oil;

(iii) a system, including permits, by which refiners, re-refiners and reprocessors of used oil may create credits which may be purchased by producers and importers of lubricating oil for the purpose of complying with subparagraph (1)(B);

(iv) enforcement;

(v) recordkeeping;

(vi) any other requirement which the Secretary considers necessary for administering the program set forth by this subsection; and

(vii) prohibitions on the mixing of used oil with hazardous wastes or other physical or chemical impurities not associated with its use as a lubricating oil, and the creation of credits from such mixed used oil.

(B) DEFINITIONS.—For purposes of this subsection,

(i) the term "credit" means a legal record of used oil refined, re-refined or reprocessed in accordance with this subsection for purposes of complying with paragraph (1);

(ii) the term "producer" with respect to lubricating oil means any person who produces a lubricant base stock from crude oil. Such production does not include the re-refining of used oil;

(iii) the term "importer" with respect to lubricating oil means any person who imports a lubricant base stock or lubricating oil, except for lubricating oil contained in transportation vehicles or other machinery;

(iv) the term "lubricant base stock" means oil from which lubricating oil is made after introduction of additives;

(v) the terms "generator" and "collector" mean any person who collects, stores, accumulates, or otherwise generates used oil. Such term does not include an individual who generates used oil by removing such oil from the engine of a light duty motor vehicle or household appliance owned by that individual;

(vi) the terms "re-refiner" and "reprocesser" mean a person who produces lubricating oils, fuels, or other petroleum products through the processing of used oil; and

(vii) the term "refiner" means any owner or operator of a facility that is classified as an S.I.C. 2911 facility under the Office of Management and Budget Standard Classification Manual.

(C) EXEMPTIONS.—

(i) This subsection and the regulations promulgated under this subsection shall not apply to a facility:

(I) that is classified as an S.I.C. number 2911 facility under the Office of Management and Budget Standard Classification Manual and that refines used oil into fuel or other petroleum products, the amount of which is equal to no more than the amount of used oil that the owner of the facility is required to refine or otherwise reuse under paragraph (1)(A); or

(II) that is classified as an S.I.C. number 2899, or S.I.C. number 2992 facility under the Office of Management and Budget Standard Classification Manual and that compounds or blends lubricating base oil into finished lubricant products as its principal activity, provided that such facility has a contract to reprocess a customer's used lubricant, and does not take title to such lubricant, and such reprocessed lubricant product is returned to the customer.

(ii) This subsection and the regulations promulgated thereunder shall not apply to used oil that is generated on-site for on-site energy production activities, including storage, use, and transportation, carried out at a facility that is classified as an S.I.C. number 4911 facility under the Office of Management and Budget Standard Classification Manual.

(iii) The Secretary shall promulgate regulations establishing requirements for exempt refineries that refine used oil. The regualtions shall cover recordkeeping, testing, and such other matters as the Secretary determines are necessary and appropriate for refining used oil at exempt refineries.

(4) AUTHORIZATION.—There is authorized to be appropriated to the Secretary of Energy $2,000,000 to carry out this subsection. There is authorized to be appropriated to the Secretary of Commerce for use by the National Institute of Standards and Technology $3,000,000 to carry out its responsibilities under this section.

(5) REPORT.—One year after the date of enactment of this subsection, and annually thereafter, the Secretary of Energy shall submit a report to the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the implementation and operation of this subsection.

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SOLID WASTE DISPOSAL ACT

(42 U.S.C. 6921)

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Subchapter III—Hazardous Waste Management

§ 6921. Identification and listing of hazardous waste

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(i) CLARIFICATION OF HOUSEHOLD WASTE EXCLUSION.—A resource recovery facility recovering energy from the mass burning of municipal solid waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this subchapter, if—

(1) such facility—

(A) receives and burns only—

(i) household waste (from single and multiple dwellings, hotels, motels, and other residential sources), and

(ii) solid waste from commerical or industrial sources that does not contain hazardous waste identified or listed under this section, and

(B) does not accept hazardous wastes identified or listed under this section, and

(2) the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

(j) USED OIL.—Notwithstanding any other provision of law, the Administrator shall not list or identify used oil as a hazardous waste under this subtitle, nor shall used oil otherwise be deemed to be a hazardous waste under this subtitle.

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